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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,060	11/06/2001	Luis F. Cabrera	003797.00215	6221
28319	7590	11/05/2004	EXAMINER	
BANNER & WITCOFF LTD., ATTORNEYS FOR MICROSOFT 1001 G STREET, N.W. ELEVENTH STREET WASHINGTON, DC 20001-4597			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 11/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/007,060

Applicant(s)

CABRERA ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8 and 15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2154

Restriction:

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-8 and 15, drawn to data transfer regulating, classified in class 709, subclass 232.

II. Claims 9-14 and 16-17, drawn to distributed data processing, classified in class 709, subclasses 203 and 237.

The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as subcombinations usable together. The subcombinations are distinct from each other if they are shown to be separately usable together. In the instant case, the invention I has a separate utility such as such as use of transaction coordination to control data transfer between two devices. The invention II, on the other hand, has a separate utility such as use of negotiated timeout to enabling distributed data processing?

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Art Unit: 2154

2. During a telephone conversation with Mr. Allen on October 25, 2004 a provisional election was made without traverse to prosecute the invention of Group II, claims 9-14 and 16-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-8 and 15 are withdrawn from further consideration by the examiner, see 37 CFR 1.142(b), as being drawn to a non-elected invention.

Object to the Specification:

3. The current title is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Applicant is also requested to provide serial number for the provisional application cited in page 1 of the specification.

Art Rejections:

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

Art Unit: 2154

matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 9-13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muntz, U.S. Appl. Publication No. 2002/0152214.

Muntz discloses a system and method for operating a distributed file system comprising:

- a) negotiating a lease time contract with a remote node (see page 2, col 1, paragraph 18);
- b) storing the time contract in a memory (page 1, col 2, par. 16, lines 9-11);
- c) receiving a transaction request from the remote node (see page 3, col 1, par. 34, lines 104);
- d) identifying and comparing an elapsed time since a last communication from the remote node (see page 3, col 1, par. 34, lines 5-7);

Art Unit: 2154

e) transmitting status data to the remote node when the elapsed time does not exceed the time period in the time contract (see page 3, col 1, par. 34, lines 8-11).

Muntz does not explicitly teach processing status request received from the client. An official notice is taken that a typical data file operation would have included both data and attribute/status read and write functions.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize the processing of such status request in Muntz's system because it would have enabled proper operations of the data file server.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muntz and further in view of Iizuka, U.S. Appl. Publication No. 2001/0009018.

Muntz's teachings are still applied as discussed above. Muntz does not teach determining time contract by taking into account delay in the network. Iizuka discloses a system and method for dynamically determining timeout settings for devices in the network depending upon the connection types and load condition of the network (see Iizuka's page 5, par. 116; page 6, par 127 and 135 and page 9, par. 180).

Art Unit: 2154

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Muntz with Iizuka's teachings because it would have enabled adjusting time contract according to changes in network condition.

Conclusion:

8. The references cited by the examiner on PTO-892 but not relied upon are considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.



VIET D. VU
PRIMARY EXAMINER

Art Unit 2154
10/29/04